

Attorney Docket No.: 0160109
Application Serial No.: 10/726,200

REMARKS

This is in response to the *Non-Final* Office Action of June 6, 2008, where the Examiner has rejected claims 1-22. By the present amendment and response, claims 1, 3, 11, 12, 14 and 22 have been amended. After the present amendment and response, claims 1-22 remain pending in the present application. An early allowance of outstanding claims 1-22 in view of the following remarks is requested.

A. Claim Objections

The Examiner has objected to the use of "and/or" in the claims. By the present amendment and response, all occurrences of "and/or" have been deleted from the claims. Accordingly, applicant respectfully submits that the Examiner's objection to the claims has been overcome.

B. Rejection of Claims 1, 4-5, 12 and 15-16 under 35 USC § 102(b)

The Examiner has rejected claims 1, 4-5, 12 and 15-16, under 35 USC § 102(b), as being anticipated by Focsaneanu (U.S. Pat. No. 5,828,666) ("Focsaneanu"). Applicant respectfully disagrees.

By the present amendment, for clarification purposes, applicant has amended claim 1 to recite "enabling a voice activity detector (VAD) of said first gateway to detect at least one of human voice and silence on said communication line for a predetermined period of time."

As an example, the Examiner states that Focsaneanu discloses "enabling said first gateway to detect human voice and/or silence on said communication line." Applicant respectfully submits that Focsaneanu does not disclose, teach or suggest a detection of human

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voice and/or silence on said communication line. To further clarify the invention of claim 1, applicant has recited a voice activity detector or VAD to clearly point out that claim 1 is directed to the detection of at least one of human voice and silence on said communication line for a predetermined period of time. In contrast, Focsaneanu clearly discloses that the switching from data mode to voice mode is not accomplished by a voice activity detector. Rather, Focsaneanu teaches that:

A customer's request for POTS service, for example by using a DTMF symbol "*" or "#", is interpreted as a request for dial tone and the data connection is dropped. The POTS personality is then downloaded to the line interface and the processor provides the physical interface to the user's copper loop. The request for dial tone is passed to the local circuit switch, e.g. via TR-303 protocol. (Col. 10, lines 6-12.)

Therefore, according to Focsaneanu, when a customer decides to switch from data mode to voice mode, the customer must use a DTMF symbol "*" or "#" to request that the POTS personality to be changed from data mode to voice mode. However, this approach loses the transparency that exists in the conventional art that uses voice mode as the default. According to Focsaneanu, when data mode is used as default, the transparency no longer exists and the user must use DTMF symbols to switch from data mode to voice mode. The invention of claim 1, however, maintains the transparency of the conventional art, even though the default mode of operation is changed to data mode. According to the invention of claim 1, unlike Focsaneanu, there is no need for the user to be aware of the default mode of operation, and the switching is performed seamlessly, and without any intervention by the user.

Accordingly, applicant respectfully submits that claim 1, as amended, is not anticipated by Focsaneanu, and should be allowed. Further, claims 4-5 depend from claim 1, as amended, and should be allowed at least for the reasons stated above. Applicant has also amended

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independent claim 12 to include limitations similar to those discussed above in conjunction with claim 1, as amended. Therefore, independent claim 12, as amended, and its dependent claims 15-16, should also be allowed at least for the reasons stated above.

C. Rejection of Claims 2, 11, 13 and 22 under 35 USC § 103(a)

The Examiner has rejected claims 2, 11, 13 and 22, under 35 USC § 103(a), as being unpatentable over Focsaneanu in view of Baumann (U.S. Pub. No. 2003/0118008) ("Baumann").

Applicant respectfully submits that claims 2, 11, 13 and 22 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

D. Rejection of Claims 3 and 14 under 35 USC § 103(a)

The Examiner has rejected claims 3 and 14, under 35 USC § 103(a), as being unpatentable over Focsaneanu in view of Terajima (U.S. Pat. No. 5,544,234) ("Terajima").

Applicant respectfully submits that claims 3 and 14 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

E. Rejection of Claims 6 and 17 under 35 USC § 103(a)

The Examiner has rejected claims 6 and 17, under 35 USC § 103(a), as being unpatentable over Focsaneanu in view of Hansen (USPN 5,940,475) ("Hansen").

Applicant respectfully submits that claims 6 and 17 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

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F. Rejection of Claims 7 and 18 under 35 USC § 103(a)

The Examiner has rejected claims 7 and 18, under 35 USC § 103(a), as being unpatentable over Focsaneanu in view of Wildfeuer (USPN 6,829,244) ("Wildfeuer").

Applicant respectfully submits that claims 7 and 18 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

G. Rejection of Claims 8 and 19 under 35 USC § 103(a)

The Examiner has rejected claims 8 and 19, under 35 USC § 103(a), as being unpatentable over Focsaneanu in view of Wildfeuer, and further in view of Schuster (USPN 6,785,261) ("Schuster").

Applicant respectfully submits that claims 8 and 19 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

H. Rejection of Claims 9, 10, 20 and 21 under 35 USC § 103(a)

The Examiner has rejected claims 9, 10, 20 and 21, under 35 USC § 103(a), as being unpatentable over Focsaneanu in view of Goldstein (U.S. Pub. No. 2003/0185222) ("Goldstein").

Applicant respectfully submits that claims 9, 10, 20 and 21 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

I. Rejection of Claims 1, 3-5, 12 and 14-16 under 35 USC § 103(a)

The Examiner has rejected claims 1, 3-5, 12 and 14-16, under 35 USC § 102(e), as being unpatentable over Fisher (U.S. Pub. No. 2004/0143620) ("Fisher") in view of Focsaneanu.

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Just as in Focsaneanu, applicant respectfully submits that Fisher also fails to disclose, teach or suggest "enabling a voice activity detector (VAD) of said first gateway to detect at least one of human voice and silence on said communication line for a predetermined period of time," as recited in claim 1.

It is respectfully submitted that there is no disclosure in Fisher that gateway 106 enables a VAD to detect at least one of human voice and silence on said communication line for a predetermined period of time to determine whether the data mode of operation should be maintained or the first gateway should be reconfigured to voice mode. In Fisher, gateway 106 does not perform such detection at all. The Office Action generally cites FIG. 1, pages 2-3, and paragraphs 24, 26-28, 32 and 32, but there is no disclosure to indicate that gateway 106 enables a VAD to detect at least one of human voice and silence on said communication line for a predetermined period of time.

Even more, as stated in previous responses, Fisher discusses the modem-on-hold process for V.92 modems for a new call (or call waiting), and there is no switching from voice to data or data to voice for an existing call. Applicant respectfully submits that the Office Action fails to establish a *prima facie* case of obviousness, as there is no teaching or suggestion, or any modicum technical possibility to modify the modem-on-hold process described in Fisher to change the operation of the same call (not a new call) from data mode to voice mode.

Accordingly, applicant respectfully submits that claim 1, as amended, is not rendered obvious by Fisher in view of Focsaneanu, and should be allowed. Further, claims 3-5 depend from claim 1, as amended, and should be allowed at least for the reasons stated above. Applicant has also amended independent claim 12 to include limitations similar to those discussed above in

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conjunction with claim 1, as amended. Therefore, independent claim 12, as amended, and its dependent claims 14-16, should also be allowed at least for the reasons stated above.

J. Rejection of Claims 2, 11, 13 and 22 under 35 USC § 103(a)

The Examiner has rejected claims 2, 11, 13 and 22, under 35 USC § 103(a), as being unpatentable over Fisher in view of Focsaneanu and Baumann.

Applicant respectfully submits that claims 2, 11, 13 and 22 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

K. Rejection of Claims 6 and 17 under 35 USC § 103(a)

The Examiner has rejected claims 6 and 17, under 35 USC § 103(a), as being unpatentable over Fisher in view of Focsaneanu and Hansen.

Applicant respectfully submits that claims 6 and 17 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

L. Rejection of Claims 7 and 18 under 35 USC § 103(a)

The Examiner has rejected claims 7 and 18, under 35 USC § 103(a), as being unpatentable over Fisher in view of Focsaneanu and Wildfeuer.

Applicant respectfully submits that claims 7 and 18 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

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M. Rejection of Claims 8 and 19 under 35 USC § 103(a)

The Examiner has rejected claims 8 and 19, under 35 USC § 103(a), as being unpatentable over Fisher in view of Focsaneanu and Wildfeuer, and further in view of Schuster.

Applicant respectfully submits that claims 8 and 19 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

N. Rejection of Claims 9, 10, 20 and 21 under 35 USC § 103(a)

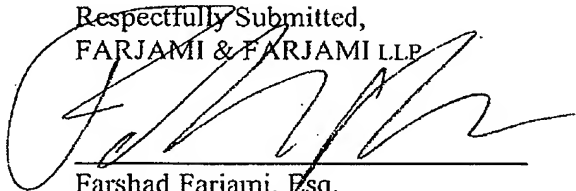
The Examiner has rejected claims 9, 10, 20 and 21, under 35 USC § 103(a), as being unpatentable over Fisher in view of Focsaneanu and Goldstein.

Applicant respectfully submits that claims 9, 10, 20 and 21 depend from claims 1 and 12, respectively, and should be allowed at least for the reasons stated above.

O. Conclusion

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 1-22 pending in the present application is respectfully requested.

Respectfully Submitted,
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